

Group IV: Claims 4, 5, and 8, drawn to a microorganism belonging to the genus *Escherichia* which has acquired a purine nucleoside-producing ability because of deregulation of control of an enzyme involved in purine nucleoside biosynthesis;

Group V: Claims 9 and 10, drawn to a microorganism belonging to the genus *Escherichia* which has acquired a purine nucleoside-producing ability because of blockage of a reaction branching from purine nucleoside biosynthesis and leading to another metabolite;

Group VI: Claims 11 and 12, drawn to a microorganism belonging to the genus *Escherichia* which is enhanced in purine nucleoside-producing ability by weakening of incorporation of a purine nucleoside into cells of the microorganism; and

Group VII: Claim 13, drawn to a method for producing a purine nucleoside by fermentation comprising culturing a microorganism belonging to the genus *Escherichia*.

In addition, the Examiner is also requiring election of a single disclosed species of an enzyme from the following: succinyl-adenosine, monophosphate synthase, purine nucleoside phosphorylase, adenosine deaminase, inosine-guanosine kinase, guanosine monophosphate reductase, 6-phosphogluconate dehydrase, phosphoglucose isomerase, adenine deaminase, and xanthosine phosphorylase.

Applicants elect, with traverse, Group VII, Claim 13. In addition, Applicants elect with traverse, phosphoglucose isomerase as single disclosed species of an enzyme. Claims 1, 9, 10 and 13 read on the elected species.

The Applicants respectfully traverse the Restriction Requirement on the following grounds. The MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together. Accordingly, the Restriction Requirement should be withdrawn.

Further, the Office, citing PCT Rules 13.1 and 13.2, contends that the species lack unity of invention because they are not so linked so as to form a single general inventive concept.

The Examiner's statement that the species lack unity of invention is incorrect. According to the PCT administrative instructions in MPEP, Annex B, Part I (f), the requirement of the same special technical feature as defined in PCT Rule 13.2 is considered to be met when the alternatives of a Markush group are of similar nature. Here, the enzymes have a common activity because they catalyze the reaction branching from the purine nucleoside biosynthesis. In addition, the compounds of the Markush group belong to a recognized class of chemical compounds in the art to which the invention pertains. All compounds are enzymes.

For the reasons set forth above, Applicants contend that the Election of Species Requirement is improper and should be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Kirsten Grueneberg

Norman F. Oblon
Attorney of Record
Registration No.: 24,618



22850

Kirsten A. Grueneberg, Ph.D.
Registration No.: 47,297

PHONE NO.: (703) 413-3000
FAX NO.: (703) 413-2220
NFO:KAG:dbl

I:\user\KGRUN\00100750PCT-rest.elec.resp.wpd